

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT ANDREW WITZKE,

Plaintiff,

Case No. 21-cv-11346
Hon. Matthew F. Leitman

v.

JORDAN RIECK, *et al.*,

Defendants.

/

**ORDER GRANTING PLAINTIFF LEAVE
TO FILE A FIRST AMENDED COMPLAINT**

On June 9, 2021, Plaintiff Scott Andrew Witzke filed this civil-rights action against several law enforcement officers and entities involved in his 2019 arrest. (*See* Compl., ECF No. 1.) One of those Defendants, Michigan State Police Trooper Robert McLean, has now filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Mot. to Dismiss, ECF No. 17.) McLean argues, among other things, that Witzke has failed to plead sufficient facts to state viable claims under the Supreme Court's decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). (*See id.*, PageID.80-87.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Witzke the opportunity to file a First Amended Complaint in order to remedy the alleged deficiencies in his claims identified by McLean in the motion to dismiss. The Court does not anticipate allowing Witzke another opportunity to amend to add factual allegations that he could now include in his First Amended Complaint. Simply put, this is Witzke's opportunity to allege any and all additional facts, currently known to him, that may cure the alleged deficiencies in his claims.

By **December 23, 2021**, Witzke shall notify the Court and McLean in writing whether he will amend the Complaint. If Witzke provides notice that he will be filing a First Amended Complaint, he shall file that amended pleading by no later than **January 6, 2022**. Upon the filing of a First Amended Complaint, the Court will terminate without prejudice McLean's currently pending motion to dismiss as moot.

If Witzke provides notice that he will not be filing a First Amended Complaint, the Court will rule upon the currently-pending motion to dismiss.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 9, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 9, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(810) 341-9764